

APPLICATION FOR RECOVERY ZONE BONDS



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Recovery Zone Facility Bonds (RZFBs)

The American Recovery and Reinvestment Act of 2009, signed into law on February 17, 2009 (“ARRA”) created a new type of tax-exempt facility bond, termed “recovery zone facility bonds” (“RZFBs”). In order to qualify as a RZFB, (i) at least 95 percent of the net proceeds of the bond must be used for “recovery zone property”, (ii) the bond has to be issued in 2009 or 2010, and (iii) the bond has to be designated as such by the issuer.

“Recovery zone property” is defined as property subject to depreciation, which was constructed, reconstructed, renovated or purchased from an unrelated party after the date on which the “recovery zone” designation took effect. Additionally, the original use of such property in the recovery zone must commence with the taxpayer, and substantially all of the use of such property must be in the recovery zone and must be in the active conduct of a “qualified business” within the recovery zone.

The national limitation (referred to as the “volume cap”) on the amount of RZFBs that can be issued is \$15 billion. This limitation is allocated among the states based upon the reduction in employment in each state between December 31, 2007 and December 31, 2008 (referred to as the “2008 employment decline”), with each state being allocated a minimum of 0.9% of the national limitation (\$135 million). Each state’s entire allocation of RZFBs is then reallocated among its counties and “large municipalities” (defined as municipalities with populations of more than 100,000) in proportion to the 2008 employment declines in such counties and municipalities. The County of Erie has an allocation of \$17,102,000 and the City of Buffalo has an allocation of \$7,151,000.

“Recovery zones” are defined as including: (i) any area designated by an issuer as having significant poverty, unemployment, rate of home foreclosures or general distress, (ii) any area designated by the issuer as economically distressed due to the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990, or (iii) any area which has been designated as an empowerment zone (e.g., Syracuse, Yonkers and New York City) or a renewal community (e.g., Buffalo-Lackawanna, Jamestown, Niagara Falls, Rochester, and Schenectady). Since the designation of recovery zones is largely to be made by each individual issuer, there is a fair amount of flexibility as to where and what types of projects can be financed with these bonds.

Frequently Asked Questions

Q: What are RZFB?

A: Recovery Zone Facility Bonds are a tool for encouraging private investment in economic development and job growth. RZFB are a new type of qualified private activity bonds (think IDB). RZFB create the ability to use tax-exempt borrowing for a wide range of business development.

RZFB are subject to the general rules that apply to qualified private activity bonds, except: (1) RZFB have a separate allocation (volume cap) of issuing authority and (2) bond proceeds can be used to acquire existing property.

Q: What are the uses of RZFB?

A: The primary criterion is that 95% or more of bond proceeds must be spent on “recovery zone property”. The IRS guidelines set three criteria for recovery zone property:

1. The property was constructed, reconstructed, renovated, or acquired by purchase by the taxpayer (the party borrowing and securing the bonds) after designation of the recovery zone.
2. The original use of the property commences with the taxpayer.
3. Substantially all use of the property occurs in the recovery zone and is the active conduct of a qualified business. A qualified business is one which (i) does not involve the rental of residential real property (defined for this purpose as real property at least 80 percent of the rental income of which is from dwelling units), and (ii) does not include the operation of a private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store of which the principal purpose is the sale of alcoholic beverages for off-site consumption.

Q: What other factors apply to the use of RZFB?

A: The bonds must be issued before January 1, 2011.

Q: Who has allocation to use RZFB?

A: The June 12 IRS Notice contained a list of allocations to local governments in each state. In Erie County, the County of Erie received an allocation of \$17,102,000, the City of Buffalo received \$7,151,000 and the Town of Amherst received \$3,699,000

Q: What is a recovery zone?

A: The proceeds of RZFB must be spent to promote development or other activity in a designated “recovery zone”. To find out if your project is in a designated “recovery zone” contact the Erie County Industrial Development Agency at (716)856-6525

Q: Is there an application deadline?

A: Yes, parties interested in applying for RZFB allocation must submit applications by May 10th, 2010

For further information or questions, please contact John Cappellino at the

ECIDA, (716)856-6525 ext. 118

Section I: Eligibility Questionnaire - Applicant Background Information

Please answer all questions. Use "None" or "Not Applicable" where necessary. Information in this application may be subject to public review under New York State Law.

A) Applicant Information-entity receiving benefit:

Total Project Amount: _____

Amount of Recovery Zone Bond Allocation Requested :(minimum \$3,000,000) _____

Applicant Name: _____

Applicant Address: _____

Phone: _____ Fax: _____

Website: _____ E-mail: _____

Federal ID#: _____

B) Individual Completing Application:

Name: _____

Title: _____

Address: _____

Phone: _____ Fax: _____

E-Mail: _____

C) Company Contact (if different from individual completing application):

Name: _____

Title: _____

Address: _____

Phone: _____ Fax: _____

E-Mail: _____

D) Company Counsel:

Name of Attorney: _____

Firm Name: _____

Address: _____

Phone: _____ Fax: _____

E-mail: _____

F) Business Organization (check appropriate category):

Corporation	<input type="checkbox"/>	Partnership	<input type="checkbox"/>
Public Corporation	<input type="checkbox"/>	Joint Venture	<input type="checkbox"/>
Sole Proprietorship	<input type="checkbox"/>	Limited Liability Company	<input type="checkbox"/>

Other (please specify) _____

Year Established: _____

State in which Organization is established: _____

G) List all Stockholders, members, or partners with % of ownership greater than 20%:

<u>Name</u>	<u>% of ownership</u>
_____	_____
_____	_____
_____	_____

H) Business Description:

Describe in detail company background, products, customers, goods and services: _____

Estimated % of sales outside Erie County: _____

Estimated % of sales outside New York State: _____

Estimated % of sales outside the U.S. _____

I) What percentage of your total annual supplies, raw materials and vendor services are or will be purchased from firms in Erie County. (You may be asked to provide supporting documentation of the estimated percentage of local purchases.)

Section II: Eligibility Questionnaire - Project Description & Details

A) Location of proposed project:

Address _____

City _____ State _____ Zip Code _____

SBL Number: _____

* If available please include a copy of current tax bill.

Town/City/Village: _____ School District: _____

Present Project Site Owner: _____

B) Please attach a project/narrative description and or any appropriate materials:

C) Site Characteristics:

Is the proposed project site located on a site where the known or potential presence of contaminants is complicating the development/use of the property? ☐ Yes or ☐ No. If yes, please explain: _____

D) Has a Phase I Environmental Assessment been prepared or will one be prepared with respect to the proposed project site? ☐ Yes or ☐ No If yes, please provide a copy.

E) Have any studies or assessments been undertaken with respect to the proposed project site that indicate the known or suspected presence of contamination that would complicate the site's development?

☐ Yes or ☐ No. If yes, please provide copies of the study

F) If you are purchasing new machinery and equipment, does it provide demonstrable energy efficiency benefits?

☐ Yes or ☐ No. If yes, please attach additional documentation describing the efficiencies achieved.

G) Does or will company perform substantial research and development activities on new products/services at the project Location? ☐ Yes or ☐ No If yes, please explain: _____

H) What percentage of annual operating expense is attributed to the above referenced research and development activities? _____

I) Explain in detail why Recovery Zone Bond Financing is necessary for this project to proceed. Focus on competitiveness issues, project financing shortfalls, etc. (attach additional pages if necessary) : _____

J) Project Information:

Estimated costs in connection with project:

Land and/or Building Acquisition: \$ _____
_____ acres _____ square feet
New Building Construction: _____ square feet \$ _____
New Building Addition(s): _____ square feet \$ _____
Existing Building Renovation: _____ square feet \$ _____
Manufacturing Equipment: \$ _____
Non-Manufacturing Equipment (furniture, fixtures, etc.): \$ _____
Soft Costs: (professional services, etc.): \$ _____
Other, Specify: _____ \$ _____

TOTAL: \$ _____

Project refinancing; estimated amount
(for refinancing of existing industrial revenue bond debt only) \$ _____

K) Select Project Type (you may check more than one):

Industrial	<input type="checkbox"/>	Back Office	<input type="checkbox"/>
Multi-Tenant	<input type="checkbox"/>	Civic Facility (not for profit)	<input type="checkbox"/>
Mixed Use	<input type="checkbox"/>	Equipment Purchase	<input type="checkbox"/>
Commercial	<input type="checkbox"/>	Retail	<input type="checkbox"/>
Acquisition of Existing Facility	<input type="checkbox"/>	Facility for Aging	<input type="checkbox"/>
Other, please explain _____			
SIC Code: _____		NAICS Code: _____	

L) For proposed facility please indicate # of sq ft for each of the uses outlined below:

Manufacturing/Processing _____
Warehouse _____
Research & Development _____
Commercial _____
Retail _____
Residential _____
Office _____
Other (specify) _____

M) If you are undertaking new construction or renovations, are you seeking LEED certification from the US Green Building Council? ☐ Yes or ☐ No.

N) If you answered yes to question above, what level of LEED certification do you anticipate receiving (Check applicable box) ☐ Standard ☐ Silver ☐ Gold ☐ Platinum

O) What is your project timetable (Provide dates):

1. Start date: completion of financing: _____
2. Completion of project facilities: _____
3. Project occupancy – estimated starting date of operations: _____

P) Have site plans been submitted to the appropriate planning department for approval? ☐ Yes or ☐ No.. If yes, submit a copy of approval with application.

Q) Have any expenditures already been made by the company? ☐ Yes or ☐ No. If yes, indicate particulars.
(Recovery Zone Bond funds may not be applied to expenses incurred prior to approval): _____

Check applicable Box(you may check more than one)

Will project create new employment ☐

Is project necessary to retain existing employment ☐

R) Employment Plan (Specific to project location):

	Current # of Jobs	Total # of jobs 2 years after project completion
Full time		
Part Time		
Total		

S) Payroll Information:

Estimated Annual Salary at project site: \$ _____

Estimated Average Annual Salary of Jobs to be Retained \$ _____

Estimated Average Annual Salary of Jobs to be Created \$ _____

Estimated Salary Range of Jobs to be Created: From: \$ _____ To \$ _____

T) Were you offered financial assistance to locate outside of Erie County? ☐ Yes or ☐ No

If yes, from whom and what type of assistance was offered: _____

U) Have you had contact with other local economic development agencies? ☐ Yes or ☐ No. If yes, please provide which agencies: _____

V) Is your project Adaptively Reusing an existing abandoned or blighted building or site. ☐ Yes or ☐ No.

If yes, please describe: _____

Section III: Eligibility Questionnaire – Financial Information

A) List Sources and Uses for full Project Financing:

Sources: _____

Uses: _____

B) Commercial Lender:

Name of Banker : _____

Firm Name: _____

Address: _____

Phone: _____ Fax: _____

E-mail: _____

C) Financial Statements:

For Existing Business please attach latest 3 years financial statements and 3 years projected year-end profit and loss statement, pro-forma balance sheets and 3 year projected year-end balance sheets.

For new businesses please attach 3 years projected year-end profit and loss statements, pro-forma balance sheets and 3 year projected year-end balance sheets.

D) Tax Exempt Financing Experience:

Have you or anyone in your organization had prior experience in tax free bond financing structures? _____

If/so explain: _____

Do you have any commitments with financial institutions or other entities regarding participating in a Recovery Zone Facility Bond Transaction or purchasing Bonds? _____ If/so list and describe participation:

Section IV: Applicant Acknowledgement

The applicant and /or the individual completing this application acknowledge that the information provided is complete and truthful to the best of their knowledge.

FORM COMPLETED BY: _____
(please print)

RELATIONSHIP TO COMPANY: _____

SIGNATURE: _____ **DATE: 20** _____